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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/705,105	11/02/2000	Daniel T. Bogard	SIG000053	4992
7590	04/05/2005		EXAMINER	
GARLICK HARRISON & MARKISON LLP P O BOX 160727 AUSTIN, TX 78716			FLANDERS, ANDREW C	
			ART UNIT	PAPER NUMBER
			2644	

DATE MAILED: 04/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/705,105	BOGARD, DANIEL T.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Andrew C Flanders	2644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 03 March 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-46 is/are pending in the application.
- 4a) Of the above claim(s) 5-12, 15-17, 20-26, 30, 31, 34-40, 44 and 45 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-4, 13, 14, 18, 19, 27-29, 32, 33, 41-43 and 46 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 02 November 2000 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____.   |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____.  | 6) <input type="checkbox"/> Other: _____.                                   |

## DETAILED ACTION

### ***Response to Arguments***

1. Applicant's arguments filed 3 March 2005 have been fully considered but they are not persuasive.

Applicant states:

"As ascertainable from the above cited sections of the statutes, rules, and MPEP, species are usually but not always independent disclosed (see MPEP sec 806.04(b)) since there usually no disclosure of relationship therebetween. The general test as when claims restricted, respectively, to different species is the fact that one claim recites limitations which under the disclosure are found in a first species but not second, while a second claim recites limitations disclosed only for the second species and not the first."

"In the present patent application, each the independent claims provides a method or a device for processing content data. The devices of claims 1 and 14 include data processing circuitry, content processing module, and a transceiving module as is generally shown in Figures 2 – 4. The dependent claims for each of claims 1 and 14 provide further limitations of the limitations of the independent claims, which are shown in the subsequent figures. In light of this, the Examiner's groupings that involve claims 1 – 18 do not pass the independent species test since the limitations of the independent claims, are common for each the dependent claims, wherein the dependent claims add further limitations of the limitations of the corresponding independent claim. Further, examination these claims can be made without serious burden on the Examiner."

The examiner has noted these arguments and does not consider them persuasive. Applicant states that a species restriction is not proper and that claims 1 – 18 do not pass the species test. There is not grouping of claims 1 – 18 in the previous restriction, furthermore, the previous restriction was not based upon genus and species restriction, rather a combination subcombination restriction; that of which is given in detail in the previous <sup>action</sup> ~~action~~. Moreover Applicant states the claims can be examined



without serious burden. However, the 6 groupings stated in the restriction correspond to multiple classes, thus creating a burden for the examiner to search.

For more information on Criteria of Distinctness for Combination, Subcombination, or Element of a Combination Please see the MPEP sec 806.05(c).

"Claims 19 and 28 are methods processing content data. Claim device processing content data. Claim 33 is a device for processing content data in accordance with the method of claim 19. Claim 42 devices processing content data accordance with the method of claim 28. The applicant believes that claims 19 - 46 do not pass the independent species test and that the examination of these claims can be made without serious burden on the Examiner."

The examiner has noted these arguments and does not consider them persuasive. Again Applicant states that a species restriction is not proper and that claims 19 - 46 do not pass the species test. There is not grouping of claims 19-46 in the previous restriction, furthermore, the previous restriction was not based upon genus and species restriction, rather a combination subcombination restriction; that of which is given in detail in the previous action. Moreover Applicant states the claims can be examined without serious burden. However, the 6 groupings stated in the restriction correspond to multiple classes, thus creating a burden for the examiner to search.

For more information on Criteria of Distinctness for Combination, Subcombination, or Element of a Combination Please see the MPEP sec 806.05(c).

The requirement is still deemed proper in light of applicant's arguments and therefore is made final. Group I will be examined on the merits.

***Specification***

2. The disclosure is objected to because of the following informalities: The specification lacks a Brief Summary of the Invention. Please see 37 CFR 1.77(b), (6) Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. **Claims 1 – 4, 14, 19 and 33 are rejected under 35 U.S.C. 102(e) as being anticipated by Burrows (U.S. Patent (6,377,530).**

Regarding **Claims 1, and 14**, Burrows discloses a LCD Display and an audio output jack connected to headphones (fig. 1 elements 116 and 130) (i.e. an external content display device), a user interface operably connected to the LCD display (fig. 1 element 116 and 118) the user interface allows a user to initiate a play sequence (col. 7 lines 60 – 65) (i.e. data processing circuitry operably coupled to process data received from an external content display device to produce presentation information), a D/A converter and an audio amplifier operably connected to the audio output jack (fig. 1 elements 126, 128 and 130) (i.e. content processing module operably coupled to process content data for presentation on the external content display device based on the presentation information), a CPU (fig. 1 element 102) (i.e. a transceiving module

operably coupled to the data processing circuitry and the content processing module) the CPU decompresses a portion of the audio data and sends it to the D/A converter which then plays it back via the amplifier and audio jack (fig. 1 elements 102, 126, 128, and 130 and col. 4 elements 27 – 34) (i.e. wherein the transceiving module separates the modulated data from the content data, wherein the transceiving module retrieves the data from the modulated data, and wherein the transceiving module introduces the content data into a channel coupling the device to the external content display device).

Regarding **Claim 2**, in addition to the elements stated above regarding claim 1, Burrows further discloses audio data (col. 4 line 27) (i.e. wherein the content data comprises at least one of: audio data, video data, text data, and multimedia data).

Regarding **Claim 3**, in addition to the elements stated above regarding claim 1, Burrows further discloses ) the user interface allows a user to initiate a play sequence (col. 7 lines 60 – 65) (i.e. wherein the data comprises at least one of: digitized audio, digitized video, and incoming remote control data).

Regarding **Claim 4**, in addition to the elements stated above regarding claim 3, Burrows further discloses the user interface allows a user to initiate a play sequence (col. 7 lines 60 – 65) (i.e. wherein the remote control data comprises at least one of volume adjust data, stop data, play data, pause data, rewind data, fast forward data, next track data, channel up/down data, bass boost data, record data, intensity data, contrast data, security access data, and telephone access code data).

Regarding **Claim 19**, it is interpreted and thus rejected for the same reasons as set forth above in claim 1. Since claim 1 discloses a device, which corresponds to, the

method of claim 19, the device is obvious in that it simply provides functionality for the method of claim 19.

Regarding **Claim 33**, Burrows discloses a CPU (Fig. 1 element 102) (i.e. a processing module), a ROM that contains control programs (Fig. 1 element 102) (i.e. a memory operably coupled to the processing module, wherein the memory includes operational instructions that cause the processing module to), a LCD Display and an audio output jack connected to headphones (fig. 1 elements 116 and 130) (i.e. an external content display device), the ROM includes a set of user interface procedures enabling the user to select audio tracks to be played (col. 5 lines 11 – 15) (i.e. receive modulated data via a channel coupled to an external content display device and receive data from the modulated data and process the data to produce processed data to produce presentation information), a play procedure and a decompression procedure (col. 5 lines 16 – 21) (i.e. introduce the content data into the channel coupling the device to the external content display device), the CPU decompresses a portion of the audio data and sends it to the D/A converter which then plays it back via the amplifier and audio jack (fig. 1 elements 102, 126, 128, and 130 and col. 4 elements 27 – 34) (i.e. separate the modulated data from the content data;; and process content data for presentation on the external content display device based on the presentation information).

5. **Claim 28** is rejected under 35 U.S.C. 102(e) as being anticipated by Huang (U.S. Patent 6,272,153).

Regarding **Claim 28**, Huang discloses a multimedia decoder an audio and video d/a converter that pass an output to a display system (fig. 2 elements 228, 236 and 238) (i.e. an external content display device and providing display data to an external content display device), an audio a/d converter (fig. 2 element 201) (i.e. processing content data to produce modulated data), a video a/d converter (fig. 2 element 200) (i.e. modulating the display data to produce modulated display data), a multimedia encoder that combines the modulated audio and video data and passes it to a memory (fig. 2 element 202 and 204) (i.e. combining the modulated display data and the content data to produce transmit data) the SDRAM passes the combined data to the multimedia decoder (fig. 2 elements 204 and 208) (i.e. providing the transmit data to the external content display device via a channel coupling the device to the external content display device).

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. **Claims 13, 18, 27 and 41** are rejected under 35 U.S.C. 103(a) as being unpatentable over Burrows (U.S. Patent 6,377,530) in view of Tran (U.S. Patent 6,359,987).

Regarding **Claim 13, 18, 27 and 41**, in addition to the elements stated above regarding claims 1, 14, 19 and 33, Burrows does not disclose an external content display device detection module operably coupled to detect capabilities of the external content display device in preparing the data. Tran discloses a multimedia speaker detection circuit (Fig. 2 element 64) and multimedia speaker detector 64 is able to distinguish between actively driven and passively driven speakers attached to the system (col. 5 lines 22 - 25) (i.e. an external content display device detection module operably coupled to detect capabilities of the external content display device in preparing the data). One of ordinary skill in the art at the time of the invention would have been motivated to add Tran's speaker detection circuit to Burrows to detect the speakers attached to the output jack in order to prevent distortion from excessive gain. See Tran col. 1 lines 49 – 67 and col. 2 lines 1 – 5.

8. **Claims 29, 42 and 43** are rejected under 35 U.S.C. 103(a) as being unpatentable over Huang (U.S. Patent 6,272,153).

Regarding **Claims 29 and 43**, in addition to the elements stated regarding claims 28 and 42, Huang discloses various compression techniques for the audio and video data (col. 4 lines 35 – 65). Huang does not specifically disclose modulating the video data at a higher rate than the rate of the audio data. However, it would have been obvious to one of ordinary skill in the art at the time of the invention to adjust the modulation rate in order to affect the quality of the audio and video data in a way that fits the use. One such use would be a standard high definition television with stereo channel audio output. One of ordinary skill would be motivated to compress the video

data less than the audio data to provide a higher quality picture since the user does not have a high fidelity audio system to produce 5 or more channels of sound and the increased modulation would not be noticeable to an average listener.

Regarding **Claim 42**, Huang discloses a microcontroller with various operating instructions (e.g. reset, begin decode, playback mode) (col. 5 lines 60 – 62) (i.e. a processing module and a memory operably coupled to the processing module, wherein the memory includes operation a instructions that cause the processing module to). A multimedia decoder an audio and video d/a converter that pass an output to a display system (fig. 2 elements 228, 236 and 238) (i.e. an external content display device and providing display data to an external content display device), an audio a/d converter (fig. 2 element 201) (i.e. processing content data for presentation on the external content display device), a video a/d converter (fig. 2 element 200) (i.e. modulating the display data to produce modulated display data), a multimedia encoder that combines the modulated audio and video data and passes it to a memory (fig. 2 element 202 and 204) (i.e. combining the modulated display data and the content data to produce transmit data) the SDRAM passes the combined data to the multimedia decoder (fig. 2 elements 204 and 208) (i.e. providing the transmit data to the external content display device via a channel coupling the device to the external content display device). Huang does not disclose a separate processing module and memory. However, the microcontroller as disclosed by Huang essentially performs the same functions. It would have been obvious to separate these elements and maintain the same functionality. See *In re Dulberg*, 289 F.2d 522, 523, 129 USPQ 348, 349 (CCPA 1961).

9. **Claims 32 and 46** are rejected under 35 U.S.C. 103(a) as being unpatentable over Huang (U.S. Patent 6,272,153) in view of Tran (U.S. Patent 6,359,987).

Regarding **Claims 32 and 46**, in addition to the elements stated above regarding claims 28 and 42, Huang does not disclose an external content display device detection module operably coupled to detect capabilities of the external content display device in preparing the data. Tran discloses a multimedia speaker detection circuit (Fig. 2 element 64) and multimedia speaker detector 64 is able to distinguish between actively driven and passively driven speakers attached to the system (col. 5 lines 22 - 25) (i.e. an external content display device detection module operably coupled to detect capabilities of the external content display device in preparing the data). One of ordinary skill in the art at the time of the invention would have been motivated to add Tran's speaker detection circuit to Huang to detect the speakers attached to the output jack in order to prevent distortion from excessive gain. See Tran col. 1 lines 49 – 67 and col. 2 lines 1 – 5.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. O'Grady (U.S. Patent Application Publication 2002/0175665) and Lee (U.S. Patent 6,823,398).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew C Flanders whose telephone number is (703) 305-0381. The examiner can normally be reached on M-F 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh Tran can be reached on (703) 305-4040. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

acf



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